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10/064,075	06/07/2002	Frank Poma	10539.4801	3897

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EXAMINER

HORTON, YVONNE MICHELE

ART UNIT

PAPER NUMBER

3635

DATE MAILED: 02/27/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No. 10/064,075	Applicant(s) Frank Poma
Examiner YVONNE M. HORTON	Art Unit 3635

— The MAILING DATE of this communication appears on the cover sheet with the correspondence address —

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

1)  Responsive to communication(s) filed on Jun 7, 2002.

2a)  This action is FINAL.      2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

4)  Claim(s) 1-23 is/are pending in the application.

4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1-14 and 20-23 is/are rejected.

7)  Claim(s) 15-19 is/are objected to.

8)  Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on Jun 7, 2002 is/are a)  accepted or b)  objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)  The proposed drawing correction filed on \_\_\_\_\_ is: a)  approved b)  disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.

12)  The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

13)  Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)  All b)  Some\* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

14)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a)  The translation of the foreign language provisional application has been received.

15)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

1)  Notice of References Cited (PTO-892)      4)  Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_

2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)      5)  Notice of Informal Patent Application (PTO-152)

3)  Information Disclosure Statement(s) (PTO-1449) Paper No(s). 2      6)  Other: \_\_\_\_\_

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## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference sign(s) not mentioned in the description: There is no description in the specification for element number "60". A proposed drawing correction, corrected drawings, or amendment to the specification to add the reference sign(s) in the description, are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.
2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "means for centrally locating the supports" and "the means for facilitating being located two-thirds up the height of the panel" must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Specification***

3. The disclosure is objected to because of the following informalities: on page 7, line 4, "fa c ades" needs to be corrected to remove the spaces between the letters to read --facades--. Appropriate correction is required.
4. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the

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following is required: there is no support in the specification for a means for reinforcing the supports centrally and there is no support in the specification for the means for facilitating being located two-thirds up the height of the panel.

***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claim 23 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

7. Claim 23 recites the limitation "the base" in line 1. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 1-3,5 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent #6,244,005 to WALLIN. WALLIN discloses the use of a concrete panel (1) including a means (38) for securing the panel (1) to a footer (9,21), a plurality of centrally located columnar supports (4,5), and a means (7,8) for facilitating placement of the panels (1) in cooperative connection with the supports (4,5). Regarding claim 2, the means for reinforcing (4,5) includes a

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plurality of reinforcing bars. In reference to claim 3, the means for securing the panels (38) is a plate on a inside face of a bottom portion of the panel (1). Regarding claim 5, the weld plate (38) is located at the top of the columnar supports (4,5), see figure 19. In reference to claim 9, the panel (1) also includes a plate (30A) disposed on the left and right sides of the panel (1), see figure 21.

10. Claims 20-23 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent #5,956,912 to CARTER et al. CARTER et al. discloses the use of a columnar insert (800,900) including a faceted portion (844,944) and (842,942), an inner arm (816,916) and an outer T-shaped form (colored red) opposite the inner arm (816,916). Regarding claims 21-23, the faceted portion (844,944) and (842,942); inner arm (816,916) and T-shape form (colored red) are all hollow (830,930).

***Claim Rejections - 35 USC § 103***

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.

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4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

13. Claims 4,6-8 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #6,244,005 to WALLIN. As detailed above, WALLIN discloses the basic claimed panel except for explicitly detailing the type and size of reinforcing bar, except for detailing the specifics of the location of the means for facilitating, and except for detailing the size of his panel and columnar supports. Regarding claim 4, although WALLIN is silent in reference to the type and size of his reinforcing bar, it would have been obvious to one having ordinary skill in the art at the time the invention was made to select the type and size of reinforcing bar since it is within the general skill of a worker in the art to select a known material on the basis of its suitability for the use intended as an obvious matter of design choice. For instance, larger size reinforcing bars are used for structures having much more loads applied thereto than a smaller structure. Also heavier or larger size reinforcing bars are perhaps used in areas where extreme external conditions influence the buildings reactions thereto. In reference to claims 6 and 7, although WALLIN is silent with regards to the exact position of the facilitating means, it too would have been an obvious matter of design choice to locate the facilitating means at a positions which provide the panel with the optimum or most effective result of facilitating placement of the panels. Regarding claim 8, WALLIN does not specifically discloses the use of an "eyelet" per se. However, he does disclose the use of a receptor (31) and lifting hooks (7,8) which are very well known art recognized equivalent means for lifting and positioning a panel. In reference to claim

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11, WALLIN is again silent in regards to the size of his panels. However, the size of the panel is also and obvious matter of design choice which is suitable for the use intended.

14. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #6,244,005 to WALLIN in view of US Patent #5,491,948 to HARRIS. As detailed above, WALLIN discloses the basic claimed panel except for panels being chamfered and except for the use of spacers between adjacent panels. HARRIS teaches the use of spacers (112) disposed between two panels (10) wherein the panels (10) are chamfered (34). Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide adjacent panels of WALLIN with the chamfered edges and spacers of HARRIS in order to seal a formed wall against infiltration effectively form an airtight wall

15. Claims 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #6,244,005 to WALLIN in view of US Patent #5,491,948 to HARRIS. .  
WALLIN discloses the method for building a tilt-up wall structure including the steps of forming a first/second panel (1) including a plurality of reinforcing bars (4,5) and reinforcing bar extensions (7,8); providing a footer (9) having holes (11); filling holes (11) with grout (25) and placing each panel (1) on the footer (9). WALLIN discloses the basic claimed tilt-up structure except for the panel edges being chamfered. HARRIS teaches that it is known in the art to chamfer (34) the edges of adjacent concrete. panels. Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to chamfer the edges of the concrete panel of WALLIN as taught by HARRIS in order to facilitate an easier placement and connection of adjacent panels. In reference to claim 13, neither WALLIN or HARRIS discloses

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the use of shims. However shims are old and very well known in the art of building up wall structures. Thus it would have been obvious to one having ordinary skill in the art to provide the method of placing shims between the footer and panel in order to maintain a sure and aligned placement of the panel prior to actual placement of the panel upon the footer.

***Allowable Subject Matter***

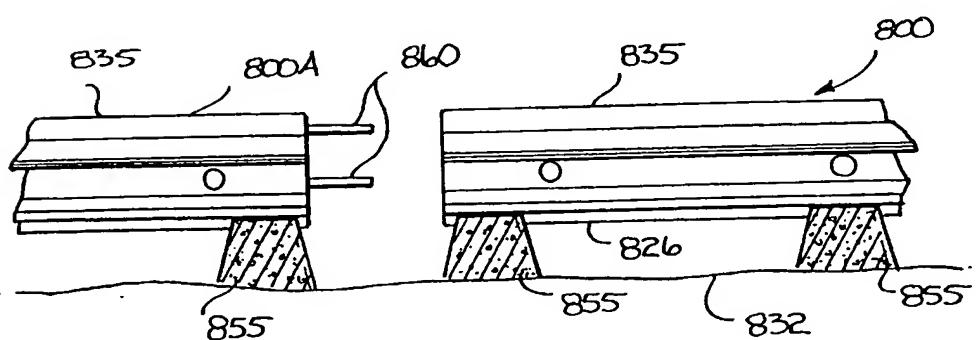
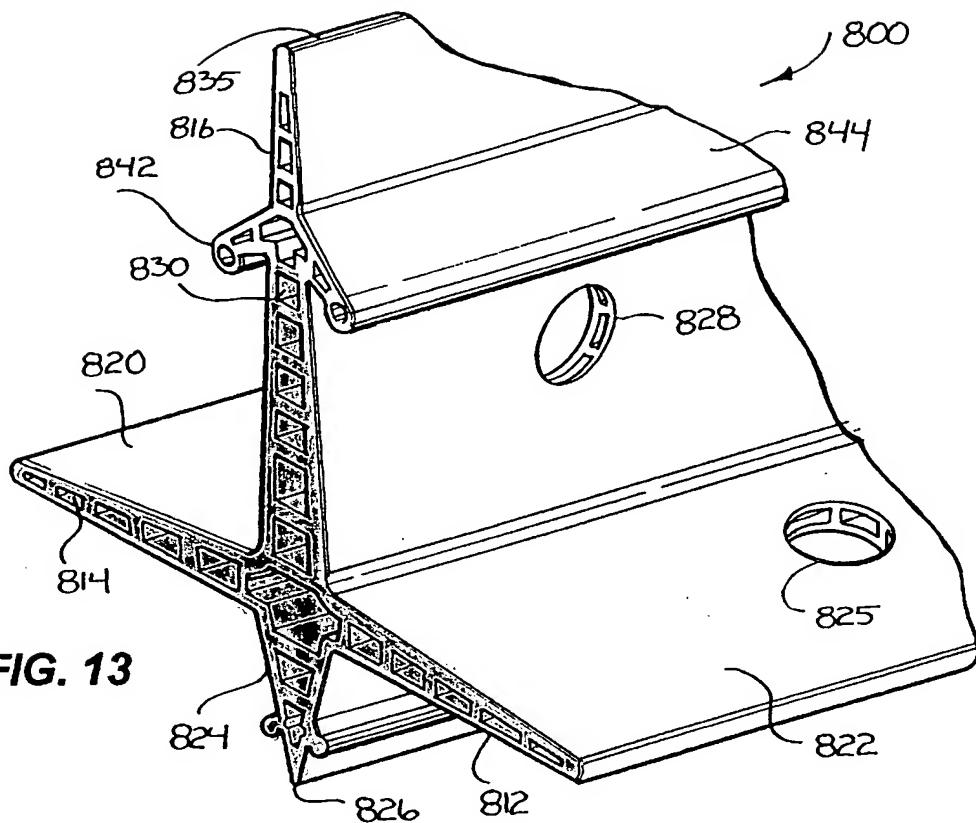
16. Claims 15-19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

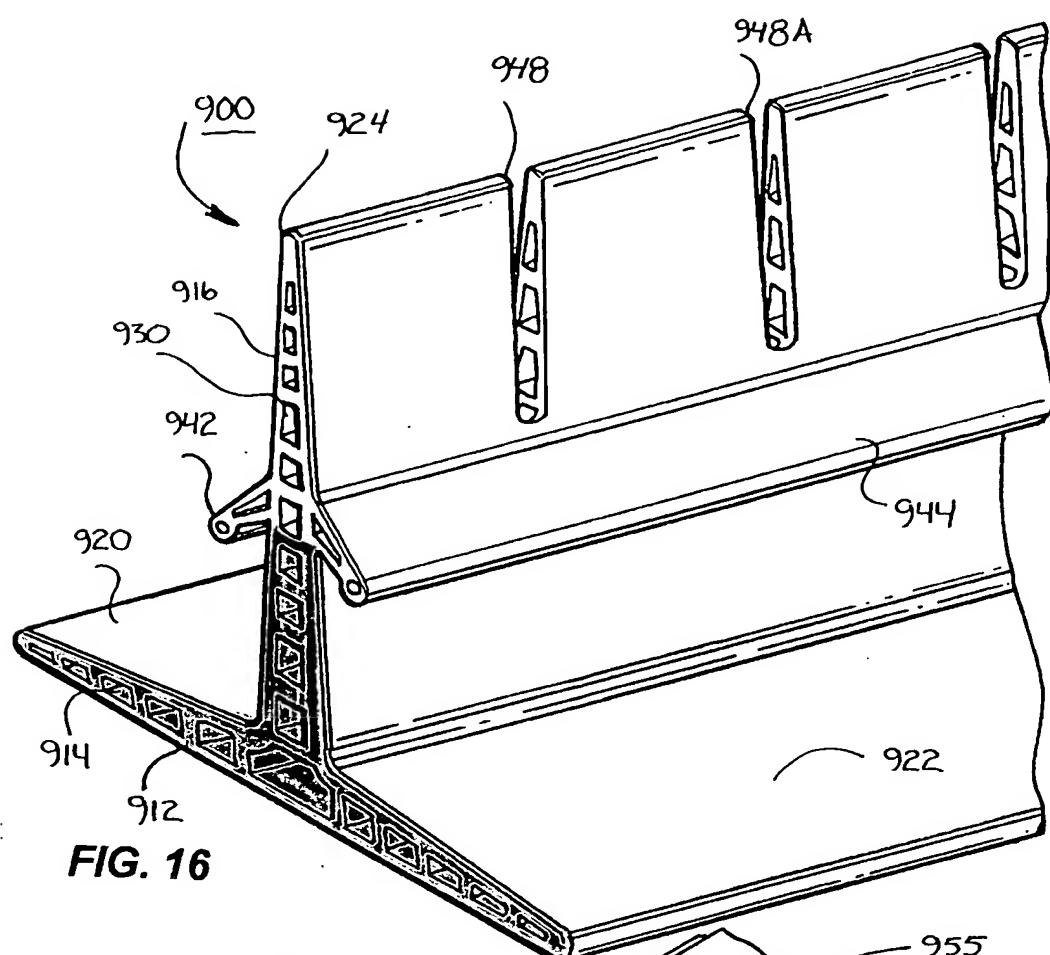
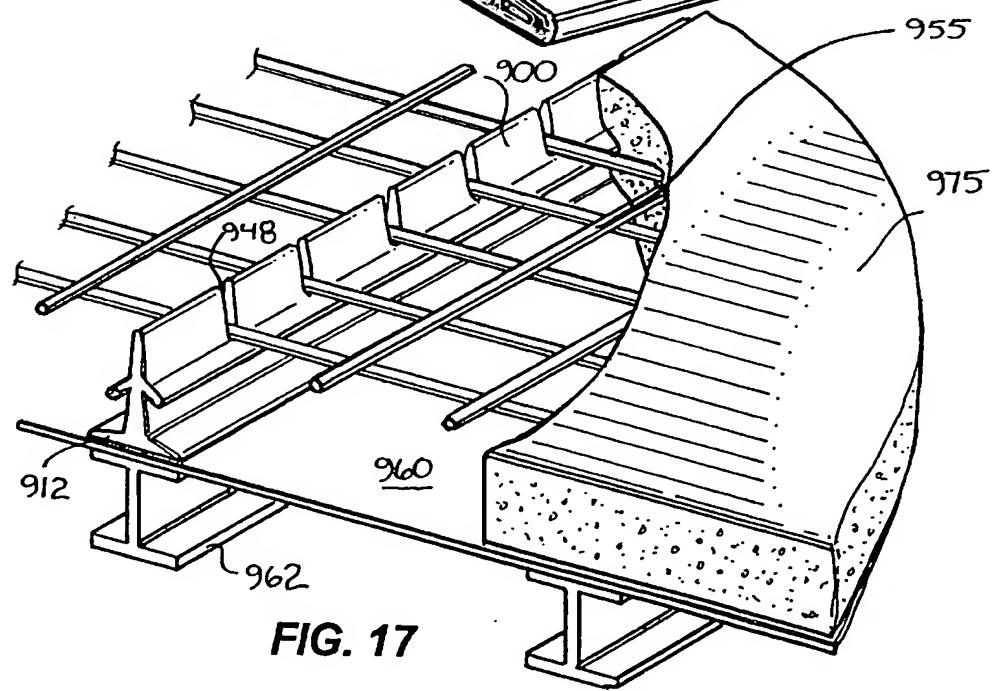
17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yvonne M. Horton whose telephone number is (703) 308-1909.

YMH



February 24, 2003



**FIG. 16****FIG. 17**